additional testimony was taken against the accused in the Supreme Court of the Philippine Islands bearing upon their guilt or innocence of the crime charged. The assignment of error is, in this respect, that the court made the order for the corrections of its record when the accused was absent from the court, and upon its own motion. For the reasons we have stated we think this was within the power of the court, and there was no lack of due process of law in making the order as the court did in this case.

Objections are made as to the want of proper arrest and preliminary examination of the accused before a magistrate, and that the information was not verified by oath or affidavit. If tenable at all, no objections of this character appear to have been made in due season in the Court of First Instance. Objections of this sort must be taken before pleading the general issue by some proper motion or plea in order to be available to the accused. 1 Bish. Crim. Pro., § 730.

As to the objection that no indictment was found by a grand jury as required by Article Five of the Amendments of the Constitution, there is no such requirement in the Philippine act of July 1, 1902, § 5, c. 1369. It is therein provided that "no law shall be enacted which shall deprive any person of life, liberty or property without due process of law." This court has held that due process of law does not require presentment of an indictment found by a grand jury. *Hurtado* v. *California*, 110 U. S. 516.

The objection that the accused was not tried by a petit jury is disposed of in *Dorr* v. *United States*, 195 U. S. 138, in which it was held that in the absence of congressional legislation to that end there was no right to demand trial by jury in criminal cases in the Philippine Islands. It is unnecessary to repeat the reasons for that conclusion announced in the *Dorr Case*.

Other assignments of error are made, an examination of which satisfies us that no violation of the Constitution or statutes of the United States in the proceedings had in the Supreme Court of the Philippine Islands warrants a disturbance of the judgment of that court.

Affirmed.

Dissenting, MR. JUSTICE HARLAN.